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SERVICE DATE – JULY 31, 2013

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 326X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Henry County, Ind.

[Docket No. AB 1093X]

C&NC Railroad Corporation—Discontinuance of Service Exemption—in Henry County, Ind.

Norfolk Southern Railway Company (NSR) and C&NC Railroad Corporation (CNUR) (collectively, applicants) have jointly filed a verified notice of exemption<sup>1</sup> under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service for NSR to abandon, and for CNUR to discontinue service over, approximately 0.88 miles of non-contiguous rail line segments in New Castle, in Henry County, Ind., as follows:

(1) approximately 0.12 miles of rail line extending between milepost R 0.00 (near Broad Street) and milepost R 0.1205 (near the intersection of S. 16th St. and Indiana Ave.); and

(2) approximately 0.76 miles of rail line extending between milepost

R 1.1629 (near the intersection of Cherrywood Avenue and M Avenue) and milepost

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<sup>1</sup> Applicants initially filed the notice of exemption on April 26, 2013. By letter filed on June 14, 2013, applicants requested that the proceedings be held in abeyance, and, on the same date, the Board granted applicants' request. On July 11, 2013, applicants submitted an amended notice of exemption.

R 1.92 (near the intersection of Cherrywood Avenue and Riley Road).<sup>2</sup> The line segments traverse United States Postal Service Zip Code 47362.

Applicants have certified that: (1) no local traffic has moved over the line segments for at least two years; (2) no overhead traffic has moved over the line segments for at least two years, and if there were any overhead traffic, it could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line segments (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line segments either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

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<sup>2</sup> According to applicants, the line segments are part of the same rail line but are separated by an approximately 1.04-mile middle line segment, which will not be abandoned and which will continue to connect with other rail lines.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on August 30, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>3</sup> formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),<sup>4</sup> and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by August 12, 2013. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by August 20, 2013, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037, and Richard R. Wilson, 518 Center St., Suite 1, Ebensburg, PA 15931.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuance on the environment and

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<sup>3</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>4</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2 (f)(25).

historic resources. OEA will issue an environmental assessment (EA) by August 5, 2013. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line segments. If consummation has not been effected by NSR's filing of a notice of consummation by July 31, 2014, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at  
“WWW.STB.DOT.GOV.”

Decided: July 26, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.